

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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BRANDON S. BAKER SR.,

Petitioner,

v.

STATE OF NEW JERSEY,

Respondent.

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Civ. No. 17-4995 (FLW)

**MEMORANDUM AND ORDER**

Petitioner is incarcerated in a federal prison in Pennsylvania but is subject to a detainer lodged by the Middlesex County Probation Department for proceedings related to an alleged violation of probation. (*See* Pet., ECF No. 1.) Petitioner, acting *pro se*, filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, seeking to challenge the detainer and have it lifted. (*Id.*) His petition was initially administratively terminated as it was accompanied by an incomplete application to proceed *in forma pauperis*. (ECF No. 3.) Petitioner subsequently filed a proper *in forma pauperis* application, and the proceeding was reopened. (ECF Nos. 4, 5, 7.) Upon screening the Petition, the Court has determined that dismissal of the Petition without an answer and the record is not warranted. *See* Rule 4 of Rules Governing § 2254 Cases (applied to this proceeding under Rule 1 of the Rules Governing § 2254 Cases). While Petitioner has listed the State of New Jersey as the sole respondent, the Court will substitute the Middlesex County Probation Department as the proper respondent under *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484 (1973), and *Rumsfeld v. Padilla*, 542 U.S. 426, 438 (2004) (“Under *Braden*, then, a habeas petition who challenges a form of ‘custody’ other than present physical

confinement may name as respondent the entity or person who exercises legal control with respect to the challenged ‘custody.’”).

Accordingly, IT IS, on this 24<sup>th</sup> day of January 2019,

ORDERED that the Clerk of the Court shall substitute the Middlesex County Probation Department as the proper respondent in this proceeding; and it is further

ORDERED that the Clerk of the Court shall serve, pursuant to Rule 4 of the Rules Governing § 2254 Cases (applied under Rule 1 of the Rules Governing § 2254 Cases), a Notice of Electronic Filing of this Order on the State of New Jersey, Department of Law & Public Safety, Division of Criminal Justice, Appellate Bureau (“the Bureau”), in accordance with the Memorandum of Understanding between this Court and the Bureau; and it is further

ORDERED, also in accordance with the Memorandum of Understanding, that, if the Bureau intends to refer the action to a different state office, the Bureau will use its best efforts to upload to CM/ECF a “referral letter” indicating the name of that office within fourteen (14) calendar days from the date of this Order; and it is further

ORDERED that Respondent shall file a full and complete answer to all claims asserted in the Petition within forty-five (45) days of the entry of this Order; and it is further

ORDERED that Respondent’s answer shall respond to each factual and legal allegation of the Petition, in accordance with Rule 5(b) of the Rules Governing § 2254 Cases; and it is further

ORDERED that Respondent’s answer shall address the merits of each claim raised in the Petition by citing to relevant federal law; and it is further

ORDERED that, in addition to addressing the merits of each claim, Respondent shall raise by way of the answer any appropriate defenses that Respondent wishes to have the Court

consider, including, but not limited to, exhaustion and procedural default, and also including, with respect to the asserted defenses, relevant legal arguments with citations to appropriate federal legal authority; all non-jurisdictional affirmative defenses subject to waiver not raised in Respondent's answer or at the earliest practicable moment thereafter may be deemed waived; and it is further

ORDERED that Petitioner may file and serve a reply to the answer within forty-five (45) days after Respondent files the answer, *see* Rule 5(e) of Rules Governing § 2254 Cases; and it is further

ORDERED that, within seven (7) days after any change in Petitioner's custody status, be it release or otherwise, Respondent shall electronically file a written notice of the same with the Clerk of the Court.

*s/Freda L. Wolfson*  
FREDA L. WOLFSON  
United States District Judge